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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/666,516

09/19/2003

Rheal Duprey

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HODGSON RUSS LLP

ONE M & T PLAZA

SUITE 2000

BUFFALO, NY 14203-2391

EXAMINER

SOLAK, TIMOTHY P

ART UNIT

PAPER NUMBER

3746

DATE MAILED: 08/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/666,516	DUPREY, RHEAL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Timothy P. Solak	3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9 and 11-15 is/are rejected.
- 7) ☒ Claim(s) 6, 10 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 10/083,945.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>09/19/2003</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Specification*

The abstract of the disclosure is objected to because it exceeds 150 words in length.

Correction is required. See MPEP § 608.01(b).

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: --Adjustable Actuation Pressure Relief Valve--.

### *Claim Objections*

Claims 1-6 and 12-16 are objected to because of the following informalities:

- \* Recitation of "remote control device" in Claim 1, next to last line, would be clearer if written as --a remote control device--.
- \* Recitation of "device capable of biasing" in Claim 12, lines 10, is not clear in context. It is unclear, whether a "device capable of biasing" is intended to be a step in the method or a structural limitation. For examination purposes, this limitation will be interpreted as a structural limitation. (See the Comment section below, for further discussion on Claims 13-16.)
- \* Recitation of "device being controllable" in Claim 14, lines 3, is not clear in context. It is unclear, whether a "device being controllable" is intended to be a step in the method or a structural limitation. For examination purposes, this

limitation will be interpreted as a structural limitation. (See the Comment section below, for further discussion on Claims 13-16.)

\* Recitation of "device capable of drawing power" in Claim 15, lines 2-3, is not clear in context. It is unclear, whether a "device capable of drawing power" is intended to be a step in the method or a structural limitation. For examination purposes, this limitation will be interpreted as a structural limitation. (See the Comment section below, for further discussion on Claims 13-16.)

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 7 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Siegrist (4,501,291). Siegrist teaches a hydraulic circuit for supplying fluid at a plurality of different pressures comprising: a reservoir 8, a pump 1, a pressure conduit 2, and an adjustable relief valve 10 connected to a relief conduit 6/7 and to the pressure conduit (see Figure 1). Siegrist teaches the relief valve operable to open when a downstream pressure exceeds an actuation pressure and to close, isolating the pressure conduit from the relief conduit, when the actuation pressure exceeds or is equal to the downstream pressure (see Figure 1). Siegrist further teaches the relief valve is remotely adjustable to change the actuation pressure (column 2, lines

33-41) and a remote control device 20/27/28 capable of remotely adjusting the adjustable relief valve. Siegrist further discloses a valve conduit 5/7 connecting the relief conduit to the pressure conduit and a conduit blocking element 11 impeding fluid communication between the pressure conduit and the relief conduit in a closed position and permitting fluid communication in an open position (see Figure 1). Siegrist further discloses a biasing device 15/15a capable of biasing the conduit blocking element to the closed position when the downstream pressure is less than the actuation pressure; wherein the biasing device is remotely adjustable by the remote control device to change the actuation pressure (column 2, lines 52-60).

With respect to Claims 11-12, Siegrist teaches incorporating the adjustable relief valve 10 into the hydraulic circuit (see Figure 1).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siegrist (mentioned previously). Although Siegrist teaches most of the limitations of the claims, including a biasing device 15/15a having a control surface 16 and a pressure control device 20 capable of controlling a pressurized fluid (i.e. a "pressure store", see column 3, lines 20-23) to the control surface through a line 24 and a remote control device 20/27/28 operable to supply pressurized fluid to the control surface to increase a biasing force on the biasing device to raise

the actuation pressure of the adjustable relief valve (column 2, lines 52-60); he does not disclose using air pressure. It was old and well known in the art of pump fabrication, that use of compressed air as a "pressure store" advantageously reduced operating costs. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have used compressed air, in the pump disclosed by Synergist, to have advantageously reduced operating costs.

With respect to Claim 13, no further method steps are introduced within the Claim; therefore the structure renders the method step (namely incorporating, see Claim 11) obvious. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have used compressed air, in the pump disclosed by Siegrist, to have advantageously reduced operating costs.

Claims 4-5, 9 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siegrist (mentioned previously), in view of Kime et al. (4,898,333). Although Siegrist teaches most of the limitations of the claims, including a remote controlled relief valve having a remote control device, he does not disclose the remote control device located within a vehicle's cab or a pump driven via the vehicle's transmission. Kime et al., disclosing a hydraulic system, specifically teach an adjustable relief valve 78/82 having a remote control device 340 mounted in a cab of a vehicle (column 9, lines 65-68) and the hydraulic system's pump 52 driven via the vehicle's transmission 46. Kime et al. teach having the control device mounted in the cab advantageously facilitated operation of the unit (column 9, lines 65-68). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have

located the remote control device in the cap of a vehicle as taught by Kime et al., in the pump disclosed by Siegrist, to have advantageously facilitated operation of the unit.

With respect to the pump being driven via the vehicle's transmission Kime et al. teach driving the pump via the vehicle's transmission advantageously reduced operational costs (column 5, lines 17-23). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have driven the pump via the vehicle's transmission as taught by Kime et al., in the pump disclosed by Siegrist, to have advantageously reduce operational costs.

With respect to Claims 14-15, no further method steps are introduced within the Claims; therefore the structure renders the method step (namely incorporating, see Claim 11) obvious. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have located the remote control device in the cap of a vehicle and to driven the pump via the vehicle's transmission as taught by Kime et al., in the pump disclosed by Siegrist, to have advantageously reduced operating costs.

***Allowable Subject Matter***

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 6 and 16 would be allowable if rewritten or amended to overcome the objections, set forth in this Office action and rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, does not teach or make obvious the apparatus/method of Claims 6, 10 and 16, specifically a hydraulic circuit for supplying fluid at a plurality of different pressures comprising an adjustable relief valve and a remote control device capable of remotely adjusting said adjustable relief valve, but more specifically said remote control device comprises a safety valve for shutting off a supply of air when a power takeoff device is off and for shutting off the supply of air when the power takeoff device is turned back on; wherein the safety valve moves from an open position to a closed position when the power takeoff device is turned off and is manually switchable from the off position to the on position after the power takeoff device is turned back on.

#### *Comments*

Claims 11-16 are method claims containing only a single method step, namely "incorporating into" (Claim 11, line 9). The remaining limitations simply add structural elements that further define the circuit. Structural limitations in method claims are given patentable weight; however writing the structural limitations into the method steps will force patentable weight onto the structural limitations. Applicants may wish to consider the following examples, using method step-like terminology:



- Rewriting "a biasing device capable of biasing the conduit blocking element..." (Claim 12, starting at line 10) as --biasing the conduit blocking element...--.
- Rewriting "wherein the hydraulic flow circuit is mounted on a vehicle..." (Claim 14, starting on line 2) as --mounting the hydraulic flow circuit on a vehicle--.

Similar changes can be applied throughout Claims 11-16 and will increase the amount of patentable weight given the structural limitations.

The above comments are offered as suggestions only, and are not intended to be an indication of allowable subject a matter.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Lauffer et al. (2,207,809) teach a remote controlled relief valve in a hydraulic system.
- Rode (1,753,024) teaches an adjustable relief valve.
- Cewers et al. (6,044,849) teach a variable opening pressure relief valve.
- Johnson (3,550,617) teaches an adjustable relief valve.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy P. Solak whose telephone number is 703-308-6197. The examiner can normally be reached on Monday through Friday from 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on 703-308-2675. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Timothy P. Solak  
Examiner  
Art Unit 3746  
August 29, 2004